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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,119	07/12/2004	Svein Myhre	ZNA-PT006	5693

3624 7590 11/24/2006

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UNITED PLAZA, SUITE 1600  
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PHILADELPHIA, PA 19103

EXAMINER

MCKINLEY, CHRISTOPHER BRIAN

ART UNIT	PAPER NUMBER
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3781

DATE MAILED: 11/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/501,119

**Applicant(s)**

MYHRE, SVEIN

**Examiner**

Christopher B. McKinley

**Art Unit**

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/12/2004</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 11 recites the limitation "the indented portion" in lines 1 & 2. There is insufficient antecedent basis for this limitation in the claim. This rejection would be overcome if claim 11 were dependent on claim 10 as opposed to claim 9 or if the term "indented portion" were replaced by --hinge-- and dependency on claim 9 were maintained. Since the applicant discloses "an outwardly concave" hinge (page 9, line 2) and not an outwardly concave indented portion, the claim will be examined as such. Please consider and appropriate revision.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-9, 12-19, 22-26 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leach (2,961,119) in view of Mogard et al. (5,934,496). Leach discloses the limitations of the claims including a hinged guarantee closure for a container (fig. 1) comprising a cap (16) having an integral closing member (fig. 4, 27), a ring member (fig. 1, 15), a hinge element (fig. 1, 17) made on the periphery of the cap, a guarantee connection (fig. 3, 32) an axial space (33), said ring having a coupling part/internal circumferential snap edge (fig. 4, 20), said guarantee connection formed flush with the cap and ring member (fig. 3), said guarantee closure made so that it is clear whether the guarantee connection has been broken or not (col. 4, lines 22-33), a container having circumferential groove (fig. 5, 23) such that the snap edge on the ring member is pressed into the circumferential groove, said guarantee closure (fig. 3, 32) is positioned diametrically opposite said respective hinge (17), the cap (fig. 1, 16) and ring member (15) have the similar external diameters. Leach does not have a method characterized in that said closure is injection molded or the hinge element comprising a spring structure wherein the cap is biased to either one of an open or closed position relative to said ring member. However, Mogard et al. teaches a method characterized in that a closure is formed by injection molding for the purpose of providing a simple and economical means of manufacturing said closure (col. 7, lines 9-28) and a hinge element comprising a spring structure wherein the cap is biased to either one of an open or closed position relative to said ring member (fig. 8, A) for the purpose of positioning the cap in such a manner that it does not obstruct the stream of fluid contents exiting the receptacle while being poured (col. 2, lines 59-64). Therefore it

would have been obvious to one having ordinary skill in the art at the time of invention to have modified Leach with a method characterized in that a closure is formed by injection molding in order to provide a simple and economical means of manufacturing said closure and a hinge element comprising a spring structure wherein the cap is biased to either one of an open or closed position relative to said ring member in order to position the cap in such a manner that it does not obstruct the stream of fluid contents exiting the receptacle while being poured.

6. Claims 10, 11, 20, 21, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 6 above, and further in view of Marvin (5,016,777). The references, as described in par. 2, disclose the limitations of the claims excluding an outwardly concave hinge made in a radially indented portion of the cap. However, Marvin teaches an outwardly concave hinge made in a radially indented portion of the cap (fig. 2) for the purpose of providing clearance channels and eliminating stress while in the closed position (col. 4, 11). Therefore it would have been obvious to one having ordinary skill in the art at the time of invention to have modified the references, as described in par. 2, with an outwardly concave hinge made in a radially indented portion of the cap.

### ***Conclusion***

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher B. McKinley whose telephone number is (571) 272-3370. The examiner can normally be reached on 7:00 AM - 3:30 AM.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LM

CM



ANTHONY D. STASHICK  
PRIMARY EXAMINER